

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JASON MONROE,)
)
 Plaintiff,)
)
 v.) No. 4:15CV1049 DDN
)
 HERBERT BERNSEN, et al.,)
)
 Defendant,)

MEMORANDUM AND ORDER

Plaintiff moves for reconsideration of the Court's Order directing him to pay an initial partial filing fee of \$36.00, and he seeks a sixty-day extension of time to file his amended complaint. The motion is granted in part and denied in part.

Plaintiff did not file his prison account statement when he filed this case. However, his financial affidavit showed that he should pay an initial filing fee of \$36.00. Plaintiff subsequently filed his account statement, which shows that he has an average monthly deposit of \$400.00, so his partial initial filing fee should be \$80.00. 28 U.S.C. § 1915(b)(1). The account statement also shows that plaintiff spends all of his money at the commissary whenever he has a deposit. He says he needs to buy his own food, clothing, and mail materials. As a result, he has a low monthly balance. However, the fact that plaintiff chooses to spend all of his money at the commissary does not give him relief from the statutory requirement to pay an initial partial filing fee. Plaintiff can easily pay an initial fee of \$36.00, and the Court will not allow him to proceed without payment of that amount by August 17, 2015.

Plaintiff requests an additional sixty days to file his amended complaint because he has little legal knowledge and restricted access to the law library. The Court grants this request.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration [ECF No. 5] is **GRANTED** in part and **DENIED** in part. Plaintiff must pay an initial partial filing fee of \$36.00 no later than **August 17, 2015**. Plaintiff must file his amended complaint no later than **October 16, 2015**.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, this action will be summarily dismissed.

/s/ David D. Noce

UNITED STATES MAGISTRATE JUDGE

Signed on July 28, 2015.